

EMERGENCY

City of Cincinnati

KCE  
JFC/pdt

An Ordinance No. 200

-2011

**AMENDING** Ordinance No. 414-2010 which amended Ordinance No. 224-2010 which authorized the City Manager to implement the Downtown Mobile Food and Beverage Vendor Pilot Program, in order to extend the Downtown Mobile Food and Beverage Vendor Pilot Program for another year, increase the annual fee for revocable street privileges issued in accordance with the Downtown Mobile Food and Beverage Vendor Pilot Program in order to recoup the associated costs and prohibit the unauthorized use of electrical outlets on Court Street, notwithstanding Cincinnati Municipal Code Chapters 718, 723 and 839.

WHEREAS, on June 23, 2010, Council approved Ordinance No. 224-2010 which authorized the City Manager to take all necessary action to implement the Downtown Mobile Food and Beverage Vendor Pilot Program (the "Program"), notwithstanding the provisions of Cincinnati Municipal Code Chapters 723 and 839; and

WHEREAS, on November 17, 2010, Council approved Ordinance No. 414-2010 which amended Ordinance No. 224-2010 in order to create new vending locations, alter the hours of operation for select vending locations, streamline the penalty provisions for violation of the Ordinance and specify additional parking restrictions applicable to the Program, notwithstanding the provisions of Cincinnati Municipal Code Chapters 718, 723 and 839; and

WHEREAS, Council desires to amend the terms and conditions of the Program in the following respects; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 1 of Ordinance No. 414-2010 is hereby amended to read as follows:

Section 1. That Section 1 of Ordinance No. 244-2010 is hereby amended to read as follows:

That the City Manager is hereby authorized to take all necessary action to implement the Downtown Mobile Food and Beverage Vendor Pilot Program, in accordance with the provisions contained herein, beginning on June 28, 2010 and continuing until June 27, 2011, with a renewal term beginning on June 28, 2011 and continuing until June 27, 2012, notwithstanding the provisions of Cincinnati Municipal Code Chapters 718, 723 and 839.

Section 2. That Section 2 of Ordinance No. 244-2010 is hereby amended to read as follows:

Section 2. That Section 2 of Ordinance No. 244-2010 is hereby amended to read as follows:

That the Mobile Food and Beverage Vendor Downtown Pilot Program shall be conducted as follows:

The City Manager or his designee is authorized to grant revocable street privileges for the placement of mobile food and beverage vendors within the Downtown area subject to the following restrictions:

(a) Definitions.

1. "Mobile Food and Beverage Vending Unit" shall be defined as a commercially manufactured, motorized or otherwise mobile unit, truck or cart that is readily movable, and from which non-alcoholic beverages and/or ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.
2. "Mobile Food and Beverage Vendor" shall be defined as any person who sells or offers for sale food or beverages, ~~or distributes food or beverages free of charge,~~ from a Mobile Food and Beverage Vending Unit in any public, private or restricted space.
3. "Downtown" shall be defined as the Downtown Vending District, as defined in Section 723-16(a)1.i., and also including the entire area commonly known as Sawyer Point.
4. The "Court Street Mobile Food and Beverage Vending Zone" shall be defined as the designated parking spaces on East Court Street, southern most side, from the east line of Vine Street extending eastward approximately one hundred thirty feet (130').
5. The "Fifth and Race Mobile Food and Beverage Vending Zone" shall be defined as the area within the parking lot immediately adjacent to the western most side of Race Street, from the north line of Fifth Street to the north, approximately 110 feet, including twelve (12) parking spaces along the eastern border of the lot.
6. The "Sawyer Point Mobile Food and Beverage Truck Vending Zone" shall be defined as the East and South portions of the concrete pad, measuring eighteen by twenty-three feet (18' x 23') in size on the East side of the L and N Bridge, South of Pete Rose Way, on the corner of Pete Rose Way and the bridge approach adjacent to the Sawyer Point Parking area.
7. The "L&N Loop Mobile Food and Beverage Vending Zone" shall be defined as the area south of the former L&N Bridge Loop abutment, north of the Pete Rose Way right of way, immediately

adjacent to the walkway along the east right-of-way line of Butler Street and extending approximately forty (40) feet to the west of this east Butler Street right of way line, as shown in the map attached hereto as Exhibit A. This zone is currently paved with concrete and is accessed from Pete Rose Way.

8. "Designated Zones" shall include the Court Street Mobile Food and Beverage Vending Zone, the Fifth and Race Mobile Food and Beverage Vending Zone, the Sawyer Point Mobile Food and Beverage Vending Zone, and the L&N Loop Mobile Food and Beverage Vending Zone as each is defined herein.

(b) Operating Restrictions.

1. Within Downtown, Mobile Food and Beverage Vending shall be allowed only:
  - i. within the four (4) designated Designated Zones as defined herein;
  - ii. on private property with the permission of the owner;
  - iii. in accordance with a permit and/or concessionaire agreement entered into pursuant to Chapter 739 of the Municipal Code; or
  - iv. as otherwise permitted by a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code.
2. Outside of Downtown, Mobile Food and Beverage Vendors shall continue to be regulated as "Peddlers" pursuant to Chapter 839 of the Municipal Code "Peddlers and Itinerant Vendors."
3. Mobile Food and Beverage Vendors who operate under a revocable street privilege issued pursuant to Section 723-16 of the Municipal Code or who operate under a permit and/or concessionaire agreement issued pursuant to Chapter 739 of the Municipal Code shall continue to be regulated by the provisions of those sections.
4. Mobile Food and Beverage Vendors located in the Designated Zones shall be allowed to operate only between the hours of 6:00 a.m. and 3:30 a.m, with the exception of the Court Street Mobile Food and Beverage Vending Zone, where they shall be permitted to operate only between the hours of 6:00 a.m. and 3:00 p.m.
5. Mobile Food and Beverage Vendors shall not be allowed to occupy space in the Designated Zones between the hours of 3:30 a.m. and 6:00 a.m. In addition, Mobile Food and Beverage Vendors shall not be allowed to occupy space in the Court Street Mobile Food and Beverage Vending Zone between the hours of 3:00 p.m. and 6:00 a.m.
6. Spaces within the Designated Zones will be available on a first-come, first-served basis each day. Issuance of a revocable street

privilege under this section does not guarantee access to a particular location, nor does it guarantee that space will be available.

7. Mobile Food and Beverage Vendors shall abide by all noise ordinances and be mindful of nearby residents.
8. Mobile Food and Beverage Vendors shall keep the area within a five (5) foot radius of their unit clear of all litter and debris arising from their operations.
9. Mobile Food and Beverage Vendors shall be responsible for removing all waste generated by the internal operations of their unit. Such waste shall not be placed in City trash receptacles.
10. Mobile Food and Beverage Vendors may not operate in any manner that blocks, obstructs or restricts the free passage of vehicles or pedestrians in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.
11. Mobile Food and Beverage Vending Units shall not exceed twenty-seven feet (27') in length or eight feet, five inches (8'5") in width.
12. Revocable street privileges and food service licenses must be kept on the Mobile Food and Beverage Vending Unit at all times and must be available for immediate inspection.
13. Mobile Food and Beverage Vendors shall not park in a way that prevents other trucks from parking in otherwise available spaces.
14. Mobile Food and Beverage Vendors shall place a tarp or other impermeable material under their unit when parked in order to protect the sidewalk and/or pavement from damage or staining.
15. Mobile Food and Beverage Vendors may set up tables and chairs in the space immediately in front of their units, provided that the tables and chairs do not impede other trucks from parking in otherwise available spaces, and further provided that the tables and chairs are placed:
  - i. Only on paved surfaces;
  - ii. In a location that does not block the entrance or exit of any building;
  - iii. In a location that does not block access to buses at bus stops, fire escapes, sidewalk access doors, traffic or street lighting equipment, utility valve boxes or other utility equipment;
  - iv. In a location that is not less than five (5) feet from any alley, pedestrian crosswalk, driveway, curb cut, curb ramp or fire hydrant, and not less than four (4) feet from any bicycle rack; and
  - v. Such that an open area of not less than four (4) feet is available for pedestrian traffic around the tables and chairs.

16. Mobile Food and Beverage Vendors may display advertising consisting only of the Mobile Food and Beverage Vendor name and logo and any items sold or available from the Mobile Food and Beverage Vendor. All other advertising is prohibited.
17. Mobile Food and Beverage Vendors shall not have access to locations within the Designated Zones during special events designated by the City.
18. Mobile Food and Beverage Vendors must be actively engaged in vending operations at all times while occupying any space in the Designated Zones.
19. In the case of Mobile Food and Beverage Units that are pulled or hauled by separate vehicles, the Mobile Food and Beverage Unit shall be detached from the vehicle by which it was hauled (the "Hauling Vehicle"). The Hauling Vehicle shall be parked in a regular, lawful parking space and shall not occupy space in any Mobile Food and Beverage Vending Zone.
20. Mobile Food and Beverage Vendors shall not utilize the City's electrical outlets, unless specifically authorized by the City, within the Court Street Mobile Food and Beverage Vending Zone due to electrical current overload issues requiring frequent, subsequent repairs by the City.

(c) Applications.

1. Persons desiring to obtain a revocable street privilege, including a renewal term revocable street privilege, for the operation of a Mobile Food and Beverage Vending Unit in the Designated Areas shall submit an application on a form to be provided by the city manager or his designee which shall:
  - i. Identify the name, mailing address, telephone number and tax ID number of the applicant;
  - ii. Identify the name and address of the person authorized to receive notices from the City;
  - iii. Identify a primary and secondary contact individual who can be contacted in an emergency;
  - iv. Include proof of liability insurance in an amount not less than \$1,000,000.00 naming the City as an additional insured;
  - v. Include the non-refundable application fee as set forth below;
  - vi. Include a copy of the applicant's current food service license issued by the Board of Health.
2. A business owner may only apply for and receive one (1) revocable street privilege pursuant to this ordinance. Any revocable street privilege issued as a result thereof will grant the

holder permission to operate one (1) Mobile Food and Beverage Vending Unit within Downtown.

3. Fees.

- i. A non-refundable application fee of \$25.00 shall accompany each application for a revocable street privilege under this section.
- ii. The annual fee for a revocable street privilege issued under this section shall be ~~\$1,000.00~~ ~~400.00 for units not exceeding 6 feet (6') in length, and \$800.00 for units exceeding 6 feet (6') in length.~~ Payment is required prior to issuance of the revocable street privilege.

4. Term.

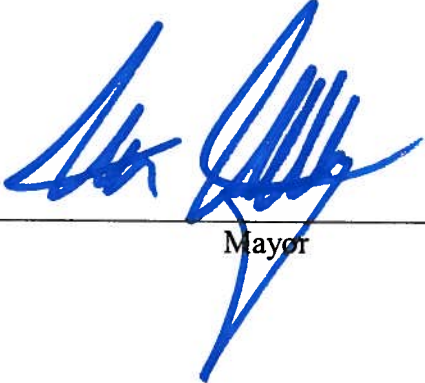
- i. Revocable street privileges for Mobile Food and Beverage Vendors shall run from June 28, 2010 until June 27, 2011.
- ii. Revocable street privileges for Mobile Food and Beverage Vendors shall be renewable for an additional annual term and run from June 28, 2011 until June 27, 2012, subject to the same terms and conditions, including the application requirement, contained herein. New applications for the renewal term will also be accepted in accordance with the provisions contained herein. shall not renew.
- iii. Revocable street privileges for Mobile Food and Beverage Vendors are non-transferrable and are revocable as further defined in Section 5 below.
- iv. Issuance of a revocable street privilege for Mobile Food and Beverage Vending pursuant to this section does not create or confer a property interest of any kind.
- v. Up to twenty-five (25) revocable street privileges may be issued pursuant to the Mobile Food and Beverage program for the renewal term.

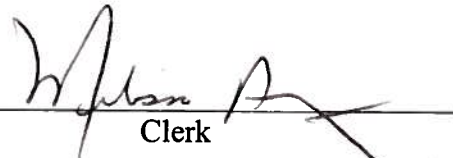
5. Penalties.

Any owner or operator of any Mobile Food and Beverage Vending Unit who violates any section of this ordinance will first be issued a written warning. Any owner or operator who continues to violate any section of this ordinance may be issued a civil citation in the amount of \$200.00. Fines must be paid within ten (10) business days. Additional violations or failure to pay fines within the allotted time period will result in immediate revocation of the revocable street privilege.

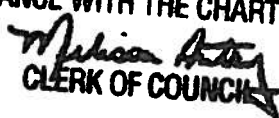
Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to revise the regulations governing Mobile Food and Beverage Vendors in order to avoid an interruption in the Program.

Passed: June 22 2011

  
\_\_\_\_\_  
Mayor

Attest:   
\_\_\_\_\_  
Clerk

New language is underscored. Deleted language is indicated by strikethrough.

I HEREBY CERTIFY THAT ORDINANCE No. 200-2011  
WAS PUBLISHED IN THE CITY BULLETIN  
IN ACCORDANCE WITH THE CHARTER ON 7-5-2011  
  
CLERK OF COUNCIL